



About the Annex Implementing Agreements

Background

What will the Annex implementing agreements do?

They will help improve the health of the Great Lakes ecosystem by taking a number of protective steps:

- Establish a new standard with the principles outlined in Annex 2001 to review proposed withdrawals of Great Lakes Basin water.
- Include the eight Great Lakes Governors and the Premiers of Ontario and Quebec formally in reviewing proposed diversions of Great Lakes Basin water in the United States as well as in Canada.
- Strengthen the regional water management decision support system.
- Require water users to practice conservation measures.
- Encourage lasting economic development while making sure withdrawals do not damage the Great Lakes Basin.
- Commit to an ongoing process that allows for public involvement.

Is this a consensus document of the Governors and Premiers?

The documents that will be distributed for public review and comment are not final and do not yet represent unanimous consensus. The public comments will help inform revisions to the final agreements, which will be consensus agreements signed by the Governors and Premiers. This is a giant step toward protecting, conserving, restoring and improving the Great Lakes Basin and reflects the Governors' and Premiers' commitment to work together for the long-term benefit and protection of this precious natural resource.

When will the implementing agreements go into effect?

Once the Governors and Premiers sign the implementing agreements, each State and Provincial legislature will, in order to implement the agreements, take the necessary legislative/regulatory measures for its specific jurisdiction, using the agreements as a foundation. In the United States, Congress will have to approve any binding compact among the States. No federal legislation is required in Canada.

Under the agreements, who would be considered an “approved water user?”

Any user approved by the State or Province in which the proposal originated.

What does it mean when you say “improvement to the water and water-dependent resources of the Great Lakes?”

It means additional beneficial, restorative effects to the waters and the natural resources of the Great Lakes Basin that result from associated conservation measures, enhancement or restoration measures. Some of those practices might include reducing the negative effects of existing water withdrawals, restoring environmentally sensitive areas or devising some conservation measures in areas that are not part of the withdrawer's specific proposal.

Process

Will the States and Provinces be bound by one agreement or compact?

Yes. The Great Lakes States and Provinces will enter into a good-faith agreement incorporating their commitments to one another. The States will enter into one interstate compact that will be binding on the States.

How will the agreements be enforced?

Because the agreement among the ten jurisdictions is a non-binding agreement, the terms of the agreement cannot be enforced by a court. However, all ten jurisdictions have made promises that they intend to keep. They will seek to implement into law what they have promised in the agreement. The Provinces intend to seek to implement the agreement through modifications to their applicable legislative/regulatory measures. The States will implement the agreement by passing a Compact into law. The States will be able to go to court to enforce the terms of the Compact.

How will the decision-making process for large-scale diversions and consumptive uses be conducted?

The laws of the State or Province in which the application originates will govern most of the process initially. After proposals are deemed complete and possible under the laws of the originating jurisdiction, the application will be sent to the States and Provinces (Regional Body) for review. Proposals in the Great Lakes States will also be reviewed by the eight Great Lakes Governors (Compact Council). These review processes will be concurrent when possible. The proposal will then be returned to the original State or Province for final action.

Can there be restrictions placed on removals of water outside the basin without restricting water use inside the basin?

Restrictions on both removals of water outside the Basin and water use inside the Basin maximizes the means of control to preserve the resource.

How long will the approval (project review) process take and will it restrict access for in-basin withdrawals?

The Regional Body and the Compact Council will do everything in their power to ensure that the process moves as quickly as possible. Many of the steps of the Regional Body and the Compact Council can take place concurrently to minimize the approval process time. To the extent possible, the approval process will be incorporated into existing jurisdictional permit approval timeframes.

Will there be some flexibility for communities located on or near the Great Lakes Basin?

Individual jurisdictions may grant an exemption to the return flow requirement for diversion applications when the applicant demonstrates that the diversion is less than 250,000 gallons per day average in every 120 day period and is exclusively for public water supply uses in areas less than 12 miles from the basin boundary where adequate quantities of potable-quality water are not available.

Additionally, communities (cities, towns or the equivalent thereof) whose existing corporate limits are in part within the watershed of one Great Lake or the St. Lawrence River and whose public water supply and wastewater discharge occur within that same watershed will be considered to be entirely within that watershed for the purposes of the Standard.

Criteria

How will different withdrawal proposals be judged under the new standard?

Withdrawals will be judged based upon their impacts on the Great Lakes ecosystem using a consistent decision making standard. Water withdrawals of the same quantity can have very different effects on the ecosystem depending upon their location and the rate at which water is withdrawn. A 1 million gallon per day withdrawal from the middle of the open waters of a lake will have a different impact than a withdrawal of the same size from a wetland, groundwater source, river or tributary.

Will existing diversions and consumptive uses have to meet the standard?

Not necessarily. The standard is not intended to restrict existing uses. As currently drafted, the new standard will be applied to new and increased water withdrawals from the Great Lakes Basin. Any State or Province may consider applying the same requirements to existing withdrawals.

Will some diversion projects have a more difficult time getting approved than others under the Annex implementing agreements?

All diversion proposals will follow the same criteria and have to yield results that improve the Great Lakes ecosystem.

Will all new or increased water withdrawal proposals have to show improvement to the resource under the Annex implementing agreements?

All large-scale withdrawals and all diversions will need to result in an improvement to the ecosystem. Because improvement is a new concept, smaller withdrawals intended for use in the Great Lakes Basin will not initially face this requirement. However, these proposals will have to meet all of the other decision-making criteria including a demonstration that they pose no significant adverse impact.

Are there clear directions for which consumptive uses must be reviewed on a regional level?

Yes. The direction is that any water use that results in a consumptive use of 5 million gallons per day or more, using a 120-day averaging period, must be reviewed regionally. Five million gallons per day would service the household needs of a town of about 50,000 people.

How will consumptive volumes be calculated?

They will be calculated using commonly accepted methods (ex., metering or other water engineering and irrigation methods proposed by the applicant) and based a 120-day average to ensure an accurate volume can be measured.

What kind of conservation measures will be required for approved water uses?

The goal is to minimize water withdrawals and losses through demand reduction and supply-side measures and incentives. These fall into two general categories: 1) Hardware devices or equipment and 2) behavior or management practices. The standard requires all jurisdictions to develop water conservation programs for new and existing users.

Implications

What is so significant about these implementing agreements?

This is the first time in history that the eight Great Lakes Governors and the Premiers of Ontario and Quebec have come together to create such agreements, creating unprecedented protection for the entire Great Lakes Basin. It is important to understand that there are a wide variety of interests and it is an extremely complicated process to reach agreement on these

important protections. However, all of the interests realize the need for such protections and have placed the long-term health of the Great Lakes Basin and its availability in the future as top priorities.

Will these new agreements and the new standard cut off or restrict economic growth?

No. One of the main goals is to preserve the Great Lakes Waters so they will be available for use far into the future. It is important that we begin to look beyond today and tomorrow. By preserving, restoring, protecting and improving the Great Lakes, we will ensure that there is enough water in the future for business use, residential and economic growth, and preservation of a healthy environment that encourages people to locate in the Great Lakes region.

Would the proposed approval process put the Great Lakes region at a competitive economic disadvantage due to a longer and more expensive decision-making process?

The preservation of waters in the Great Lakes Basin is critical to the economic development of the region, and the jurisdictions are working to ensure that the waters are available and in good health for future use.

Will the new water management system encourage better water conservation?

Absolutely. The new water management system will include strong provisions requiring water conservation for new or increased water-use proposals. Additionally, the jurisdictions will develop and implement water conservation programs for both new and existing users.

Will the Annex implementing agreements prevent lake levels from falling further?

Annex implementation will help to ensure that water levels are protected so that any future withdrawals will not aggravate the natural levels and flows of the Great Lakes.